

Notice of Allowability

Application No.

09/519,847

Applicant(s)

RIPOCHE ET AL.

Examiner

John Hoffmann

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 23 June 2003.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☒ The drawings filed on 01 June 2001 and 11 October 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <ol style="list-style-type: none">1 <input type="checkbox"/> Notice of References Cited (PTO-892)3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none">2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____6 <input type="checkbox"/> Examiner's Amendment/Comment8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance9 <input type="checkbox"/> Other |
|---|---|


JOHN HOFFMANN
PRIMARY EXAMINER
GROUP 1300

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: As indicated in page 6 in the Brief on Appeal, the prior art does not recognize that the one burner injects the silica or the precursor onto a heated area of Fujikawa. This also applies to US PAT 4568370 and the other art. Examiner's indication that that the area that would be still be heated when a second burner impinged on that area is merely common sense which is bolstered by 13 years of patent examining in glass technology and a Master's degree in material science. However, such common sense is not evidence and is not sufficient to support a conclusion of obviousness. Since it is theoretically possible to use super cooled fluid to cool the adjacent areas of the prior art methods to cool the preform to room temperature so that they are no longer in a heated condition, one cannot conclude that it is inherent that the particular limitation must be met by the prior art.

Examiner interprets "heated area" to be any area in a heated condition - i.e. a temperature above room temperature. This definition is used because Applicant did not define what is meant by the term; the drawings show that a "heated area" is not limited an area which is being directly/immediately impinged upon by a flame; and because such is the broadest reasonable interpretation of "heated area".

Claim 4 is rejoined and allowed with claims 1-3

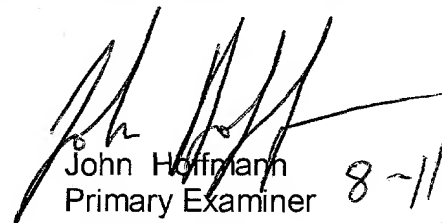
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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is 703-308-0469. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-372-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.


John Hoffmann
Primary Examiner
Art Unit 1731
8-11-03

jmh
August 11, 2003